



ADRIAN GARCIA COMMISSIONER

MEMORANDUM

TO: Commissioner Garcia
FR: Kristen Lee
DT: April 1, 2019
RE: Key Issues to Discuss with the EPA in the Wake of the ITC Fire

1. Reconvene EPA Working Groups

In January 2017, the EPA convened an initial meeting of an Interagency Working Group made up of community stakeholders; local, state and federal agency representatives; and industry leaders. The group met in Houston and discussed emergency response and community involvement; improvements and implementations; and next steps. However, the group has not met since. The community is calling for this working group to be reinstituted and for a meeting to be held in Houston as soon as possible.

2. Comprehensive Environmental Assessment

The Intercontinental Terminals Company (ITC) fire highlighted the need for baseline environmental data and overall risk assessment for communities in Harris County. The EPA has employed comprehensive environmental assessments to manage complex data and input from diverse stakeholder perspectives on research and planning that supports human and environmental health decision-making processes. Harris County is ripe for this type of assessment, especially along the Houston Ship Channel where industry and residents coexist in close proximity.

There is a need for increased air, water, and soil monitoring in Harris County, and particularly in Precinct 2. As the emergency response winds down after ITC, the gap between what is needed and what is actually present in the County will increase. Harris County needs additional continuous monitoring and reporting by the EPA.

3. Remediation

The EPA has worked closely with local stakeholders on the remediation plan for the San Jacinto River Waste Pits. Although not a Superfund Site, a community-based approach should also be taken in response to remediation in the wake of the ITC fire. The EPA should engage the many nonprofit and academic institutions performing water sampling in the affected area to ensure all areas of concern are addressed. Much like in the Waste Pits case, the EPA work with the County to ensure that the Responsible Parties are fully accountable for the remediation process. In addition, should the EPA find that designated state agency responsible for enforcing the Clean Water Act and Clean Air Act is not fulfilling its responsibilities, it should revoke that designation and perform the enforcement work itself.

4. Increased oversight of Risk Management Plans (RMP) and Tier II data

The RMP rule requires that owners and operators of facilities holding more than a threshold quantity of a regulated substance in a process must implement a risk management program and to submit an RMP to EPA. However, these RMPs are sufficiently reviewed for accuracy and not readily accessible to first responders or the public in emergencies.

In Harris County, the problems with the RMP and Tier II inventory processes were laid bare after the Arkema plant exploded in 2017 following flooding by Hurricane Harvey. Although Arkema had an RMP in place, first responders were not fully aware of the hazards from the fire, and several police officers, firefighters, and EMTs became ill from the smoke. Even though Arkema's RMP was up-to-date at the time, Arkema refused to release both their RMP and Tier II inventories.¹ It is also clear that Arkema's RMP was not sufficient to mitigate the threats their site posed because it did not fully prepare for the flooding that led to the fire and explosion.

The ITC fire that started on March 17 is the most recent example of why Harris County needs the EPA to improve RMP procedures. An example of the ITC's RMP lists the Deer Park Police Department as the local response agency for the facility, despite the fact that fire departments are the primary responder to chemical emergencies.

In the wake of the West, Texas fertilizer plant explosion in 2013, the EPA proposed improvements to the RMP rule, known as the Chemical Disaster Rule. While the initial rule was finalized in January 2017, the EPA has since delayed implementation and tried to rollback key new protections. The EPA's new draft rule removed improvements including increased information for first responders, fenceline communities as well as a move towards safer technology and practices. In the absence of EPA action, the burden is increasingly borne by communities and local governments.

¹ Emma Platoff and Jim Malewitz, "Crosby plant explosion highlights state efforts to block access to chemical information," Texas Tribune, September 1, 2017, accessed here: <https://www.texastribune.org/2017/09/01/crosby-plant-explosion-highlights-state-efforts-limit-access-informati/>